IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 9TH AUGUST 2006 / 18TH SRAVANA 1928

OP.No. 12390 of 2001(Y)

PETITIONER:

JOSEPH, S/O.VARKEY,
PUTHIYADAM HOUSE,
KURAVILANGADU,
KOTTAYAM.

BY ADV. SRI.RAJEEV V.KURUP

RESPONDENTS:
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1. THE STATE OF KERALA REP. BY
THE SECRETARY, DEPARTMENT OF
REVENUE, TRIVANDRUM.

2. THE ASSESSING AUTHORITY,
TAHSILDAR, MEENACHIL.

3. THE VILLAGE OFFICER,
KURAVILANGADU VILLAGE,
KURAVILANGADU.

BY G.P. SRI.GEORGEKUTTY MATHEW

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 09/08/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO.19791/2001 IN O.P. NO..12390/2001

DISPOSED OF VIDE JUDGMENT:

9.8.2006 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: COPY OF THE BUILDING TAX ASSESSMENT ORDER DT.31.10.88 ISSUED BY R2 TO THE PETITIONER.

P2: TRUE COPY OF THE CERTIFICATE ISSUED BY PETITIONER DT.30.8.96.

P3: TRUE COPY OF THE CERTIFICATE ISSUED BY THE ACADEMIC BOARD DT.11.3.99 TO THE PETITIONER.

P4: TRUE COPY OF REPLY LETTER ISSUED BY PETITIONER TO R2 DT.17.1.2001.

P5: TRUE COPY OF ASSESSMENT ORDER DT.24.3.2001 ISSUED BY R2 TO PETITIONER.

P6: TRUE COPY OF DEMAND NOTICE ISSUED BY R2 TO PETITIONER DT.24.3.2001.

TRUE COPY

P.S. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.12390 of 2001

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Dated this the 9th day of August, 2006.

JUDGMENT

The O.P. is filed challenging demand of building tax in respect of a building stated to be used as parallel college and nursery school. According to the petitioner, petitioner is also imparting training in para medical course in the same building. If building is used principally for educational purposes, then it is entitled to exemption, no matter it is run on chargeable basis or not. All what is required for exemption from tax is carrying on of an educational institution. However, if petitioner is not running educational institution, but has let out the building for educational purposes, then at the hands of the owner the use is commercial and building is liable to be assessed. Since no proper adjudication order is issued, the Tahsildar is directed to reconsider the matter after conducting inspection and after verifying the ownership of the building and the person carrying on the educational activity there. The Tahsildar is directed to issue fresh orders within a period of two months from the date of receipt of copy of this judgment. As and when fresh orders are issued, he will recall previous orders. Before final orders are passed, petitioner will be given an opportunity of hearing and should be informed of the data gathered by the Tahsildar through independent enquiry conducted by him. Stay against recovery proceedings will continue to remain in force for another six months and thereafter recovery if any will be based on fresh adjudication orders to

be issued by the Tahsildar as above.

The O.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms